

**MALIBU COMPREHENSIVE ACCESS:
ESCONDIDO BEACH ACCESSWAY**

STATE COASTAL CONSERVANCY

Project Summary
December 7, 1990

MALIBU COMPREHENSIVE ACCESS: ESCONDIDO BEACH ACCESSWAY

File No.: 90-071
Project Manager: Brenda Buxton

REQUESTED ACTION: (1) Authorization to enter into an Interagency Agreement with the California Coastal Commission to accept and use \$300,000 for operations and maintenance of Malibu accessways and (2) disbursement of an amount not to exceed \$50,000 to the Surfrider Foundation to operate and maintain a coastal accessway for at least ten years.

LOCATION: 27400 Pacific Coast Highway, Escondido Beach, Malibu (Exhibit A)

PROGRAM CATEGORY: Access

COST ESTIMATE:	Coastal Commission In Lieu Fee Account	<u>\$50,000</u>
	Net Conservancy Cost	-0-

PROJECT SUMMARY: If approved, this project will implement the next phase of the Conservancy's comprehensive access program for the Malibu coast: the opening of the Escondido Beach accessway in Malibu. This comprehensive access program has been ongoing since 1979, and this phase will open up four more key access points along the Malibu coast. Following Coastal Commission action, \$300,000 will be made available to the Conservancy from the Commission's In Lieu Fee Account for the opening of new accessways in Malibu. Escondido Beach has long been a priority access site for both the Coastal Conservancy and the Coastal Commission because it is one of the few wide sandy beaches in Malibu where historic access has been eliminated by development. Access does exist at the ends of this three-mile-long beach, but opening the accessway will make new areas of beach available to the public, relieve some of the crowding at the two other Escondido Beach accessways (Escondido Creek and Paradise Cove), and take advantage of this already built stairway (completed at no cost to the public.)

This accessway consists of a 100-foot walkway and a stair, that was built for public use by the adjoining homeowners to satisfy conditions of a coastal development permit. Under that permit, an Offer-to-Dedicate a public access easement to a public agency or a nonprofit organization was recorded. The permit also required the accessway be open to the

public, but this has not occurred for two reasons: 1) the accessway is currently blocked and requires an additional ten feet of stairway to be usable; and 2) the accessway lacks a willing management agency.

Conservancy staff are working with the Coastal Commission enforcement staff to resolve the first problem by getting the homeowners to remove the barricades and complete the stairs, as required by the permit. We expect this to be done by the spring.

The second problem is a significant obstacle. Both the Los Angeles County Department of Beaches and Harbors and the State Department of Parks and Recreation are unwilling to operate smaller, non-revenue-generating accessways such as this one. This reluctance is not shared by the Surfrider Foundation, a nonprofit organization dedicated to public coastal access for all beach goers. However, the Foundation lacks the financial resources to manage the accessway. The recommended \$50,000 authorization, which uses no Conservancy bond funds, will enable the Foundation to acquire the necessary property interest (through acceptance of Offers-to-Dedicate easements) to open and manage this accessway for free public use for a period of at least ten years. These funds will be reimbursed from the Coastal Commission's Malibu Access In-Lieu Fee account, the purpose of which is to facilitate the acquisition, operation, and maintenance of new public accessways.

In the past, the Conservancy has sought to increase and improve access by assisting with the costs of acquisition of property and/or construction costs of stairs, trails, and other facilities. At this site, however, such costs are not an issue because the stairway will be fully developed and is dedicated to public use upon acceptance of the recorded offer of an easement. Rather, the lack of a management agency has been the main obstacle to creating new access at the site. The Conservancy can best carry out its mandate to implement a system of public coastal accessways by encouraging a management organization, such as Surfriders, to accept management responsibility for dedicated accessways and funding the operation and management costs. Without Conservancy assistance, Surfriders will not be able to manage this stairway and the stairway will remain indefinitely closed to the public in an area with an acute access shortage.

STATE COASTAL CONSERVANCY

Staff Recommendation
December 7, 1990

MALIBU COMPREHENSIVE ACCESS:
ESCONDIDO BEACH ACCESSWAY

File No.: 90-071
Project Manager: Brenda Buxton

STAFF
RECOMMENDATION: Staff recommends that the State Coastal Conservancy adopt the following Resolution pursuant Sections 31400 *et seq.* of the Public Resources Code:

"The State Coastal Conservancy hereby authorizes its Executive Officer to enter into an interagency agreement with the California Coastal Commission to accept and use \$300,000 for the operation and maintenance of Malibu accessways in substantially the form of Exhibit D to the accompanying staff recommendation; and

The Conservancy further authorizes the disbursement of an amount not to exceed fifty thousand dollars (\$50,000) to the Surfrider Foundation to open, operate and maintain the Escondido Beach accessway offered for dedication in Documents No's. 86-435660, 84-426207, 83-1152650, 83-1152648 and 83-1152649 of Los Angeles County Records, in Malibu, Los Angeles County, subject to the following conditions:

Prior to the disbursement of any funds,

1. The Surfrider Foundation shall accept the offers to dedicate the Escondido Beach accessway and its adjoining lateral access easements, as described in Exhibit B, of the accompanying staff recommendation;
2. The Foundation shall submit for review and approval of the Conservancy's Executive Officer:
 - a. A final budget and a management program for operations and maintenance of the accessway;
 - b. Names and qualifications of all subcontractors the grantee intends to employ for this project;
 - c. A plan for signs or some other means to identify the accessway and acknowledging the Conservancy's contribution; and

- d. Evidence that the Foundation has adequate insurance for operation and maintenance of this accessway.
3. The Foundation and the Conservancy shall enter into an agreement pursuant to:
 - a. Public Resources Code Section 31116(c), to protect the public interest in the facilities maintained under this agreement, and providing the Conservancy or its designee with the right to take title to all interest in the easements described in Exhibit B if the Foundation fails to carry out the agreement or ceases to exist; and
 - b. Government Code Section 831.5, to provide nondiscriminatory public access on the dedicated easements for a period of at least ten (10) years, and to grant to the Foundation public entity status during this term for the purpose of limiting tort liability."

Staff further recommends that the Conservancy adopt the following findings based on the project analysis, exhibits, and attachments contained in the accompanying staff report.

"The State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the purposes and objectives of Sections 31400 *et seq.* of the Public Resources Code;
2. The proposed project is consistent with the Conservancy's Access Standards and Program Criteria;
3. The proposed project will serve greater than local need; and
4. The Surfrider Foundation is a nonprofit organization existing under U.S. Internal Revenue Code Section 501(c)(3) and having among its principal charitable purposes the preservation of land for recreational opportunities."

STAFF DISCUSSION:

Site Description-

The Escondido Beach accessway has already been built as a condition of a coastal development permit (# A-184-80) approved in 1980. In consideration for the development authorized under that permit, the homeowners not only offered to build the stairs, they also offered to create two public parking spaces and to operate and maintain the

accessway for no more than 21 years or until a nonprofit or government entity accepted responsibility for the stairs. However, these conditions were never met. Conservancy staff has been working closely with the enforcement staff of the Coastal Commission to clear up this apparent coastal permit violation. The Commission staff expects a settlement to be reached whereby the homeowners will first finish the stairway and later create the parking.

Upon approval of this recommendation, the Surfrider Foundation ("Surfriders") will accept the offers to dedicate public access easements in the Escondido Beach area of Malibu (Exhibit B). After completion of the stairs by the homeowners pursuant to that settlement, Surfriders will then enter into an agreement with the Conservancy to provide public access on the easements. (No Conservancy funds would be disbursed until the violation is resolved.) This agreement will also outline Surfriders' responsibilities which will mainly be to a) inspect the accessway for safety once a week and take steps to ensure public safety; b) keep the accessway free of trash; and c) maintain public access signs which acknowledge the Conservancy as the funder and Surfriders as the manager of the site, and specify terms of use; and d) assure that the accessway is open from dawn to dusk.

Using a nonprofit to operate and maintain an accessway is not without precedent. The Conservancy and Surfriders are now currently working together to manage the Conservancy's Moat Creek access in Mendocino County. With a grant from the Conservancy, Surfriders is constructing the accessway and will manage the accessway on a volunteer basis.

Surfriders will provide extremely cost-effective services. Since this organization has little overhead and can utilize members on a volunteer basis, the expense of running this accessway is expected to be comparatively low, approximately, \$5,000 a year. These funds will be used to pay for equipment, milage, trash disposal, and other associated expenses. Many of the volunteers will be local Malibu residents and frequent beach users, they are likely to be concerned about this accessway as part of their community.

Surfriders is the most appropriate entity to accept and open the accessway because neither Los Angeles County nor the City of Malibu is prepared for such responsibilities at this time. If this project is approved, the Surfrider Foundation will first accept the Offers-to-Dedicate at the Escondido Beach accessway. Surfriders will open the accessway to the public as soon as the coastal permit issues have been resolved and the Commission's In Lieu Fee funds have been transferred to the Conservancy. This arrangement will ensure that the accessway is open sooner than is otherwise likely, and may help demonstrate to other local agencies how such access can be opened and operated at low cost.

The funding provided through the Conservancy is expected to last for a minimum of ten years. At the end of that time the Conservancy and Surfriders may renegotiate the agreement to give the accessway to the City of Malibu or some other receptive local government.

Over the past years the Conservancy staff has sought to develop feasible, cost-effective approaches to the access problems in Malibu in a comprehensive manner. By utilizing a variety of options including the Offers-to-Dedicate Public Access easements (as in this project) and land acquisitions (as Latigo Shores), staff intends to recommend a series of new projects in Malibu that will create new accessways and provide much needed support facilities where possible (Exhibit C). In doing so, the Conservancy can help to relieve some of the ever-growing demand for coastal recreation opportunities in Malibu. These projects have been divided into the following four phases:

- I) Opening of the Escondido Beach Accessway (described above)
- II) Construction of stairs and support facilities at the Adamson site, a dedicated accessway, on Malibu Road
- III) Construction of stairs and support facilities at Latigo Shores and assumption of maintenance by the Department of Parks and Recreation
- IV) Construction of access and recreation facilities at El Sol in the western section of Malibu

Project Financing- There will be no net cost to the Conservancy since all funds the Conservancy spends to operate and maintain this accessway will come from the Coastal Commission's In-Lieu Fee Account. This account collects fees assessed from developers of commercial property in the Malibu area. The purpose of these fees is to mitigate the impacts that such development has on traffic and access to the beach by acquiring or funding the operation and maintenance of new accessways, such as this one.

Pursuant to an interagency agreement between the Commission and the Conservancy (Exhibit D), the Conservancy will deposit funds received from the Commission into a special, interest-bearing "Malibu Comprehensive Access" account. The initial deposit of \$50,000 to fund this phase of the Comprehensive Malibu Access Program would be made following Conservancy and Commission authorization to enter into the agreement, with additional deposits to be made upon Conservancy board approval of each future phase of the Malibu Comprehensive Access Program. (Each phase is described above.) These funds would be used to provide for development, operation, and maintenance of these access projects.

Site Description- The Escondido Beach accessway is located approximately in the middle of the three miles of Malibu coast known as Escondido Beach. Escondido Beach is immediately east of Point Dume, a promontory that divides the Malibu Coast into two nearly equal sections (Exhibit E). There are currently only two access points to this beach: Paradise Cove, a privately owned facility where beach recreation costs users at least \$10.00, is located two miles upcoast; and Escondido Creek Access, a stairway (operated by Los Angeles County) with extremely limited parking, is one mile downcoast.

The Escondido Beach accessway consists of a walkway, screened by trees on the eastern side and a high wall along the western edge of the property. The walkway terminates in a series of stairs and landings that take visitors down the steep cliffs of Escondido Beach. The homes on the beach are located on the top of the bluffs, and thus residents and beach-goers are separated, protecting the privacy of the homeowners. In addition, Escondido Beach has a high number of dedicated "lateral" access easements which allow the public legal access along the sand. Several of these easements are adjacent to the Escondido Beach accessway. Surfriders will accept these easements and, when combined with the adjacent lateral deed restrictions, will create 700 yards of public beach. While there is no parking at this time immediately adjacent to the accessway, there is on-street parking for 15 cars a few hundred feet downcoast.

Judging by the visitation at the other accessways, the use of this site is expected to be high for an accessway with no visitor-serving facilities.

Project History- Malibu has long been a public access priority for both the Coastal Conservancy and the Coastal Commission. Serving the 1.2 million inhabitants of the San Fernando Valley and the 8.8 million residents of the Los Angeles Basin as well as many tourists from all over the world, Malibu is one of the most famous sections of the California coast. During the past two decades, Malibu has experienced tremendous growth, which has increased the population along with the demand for recreational opportunities. At the same time, this growth has restricted the number of access opportunities. Los Angeles County, suffering from severe budget cutbacks, has not been able to undertake any projects in the region and so the Conservancy has worked with the State Department of Parks and Recreation and has supported the activities of nonprofit organizations such as the Malibu Esplanade in order to carry out Public Access Program objectives. (This nonprofit organization has designed and will be constructing the Esplanade at Surfrider State Beach.)

PROJECT SUPPORT: This project is supported by the California Coastal Commission staff, the Surfrider Foundation Board of Directors,

Senator Gary Hart, Assemblyman Tom Hayden, the City of Malibu, and Supervisor Dean Dana (Exhibit F).

**CONSISTENCY WITH
CONSERVANCY'S
ENABLING LEGISLATION:**

Public Resources Code Section 31400 provides that it is the policy of the state to guarantee public access and enjoyment of coastal resources. That section also provides that the Conservancy should have a principle role in implementing a system of public accessways to and along the state's coastline. This project will further those goals by creating a new accessway in a heavily-visited region as part of a regional, comprehensive access plan.

In addition, Section 31400.3 of the Public Resources Code states that "the Conservancy may provide such assistance as is required to aid public agencies and nonprofit organizations in establishing a system of public coastal accessways, and related functions necessary to meet the objectives of this division."

**CONSISTENCY WITH
CONSERVANCY'S
PROGRAM GUIDELINES:**

Serves Greater Than Local Need: Malibu has one of the most heavily visited coastlines in California. During peak summer months, the huge state beaches are filled and beach-goers use accessways with no visitor-serving facilities, such as this one, in order to enjoy less crowded beaches.

Consistency with Local Coastal Program: Malibu does not have a certified Local Coastal Program at this time. The approved County Land Use Plan recognizes Escondido Beach as a priority access area and calls for accessways at every 2000 feet of beach frontage.

Consistency with Access Standards: This project is consistent with all applicable access standards. The accessway is located where it will safely accommodate public use and ensure the privacy of adjoining residences (Standard No. 1). The easement is a ten-foot-wide offer-to-dedicate public access (Standard No. 3). The accessway is screened and fenced for privacy (Standard No. 4). This project also incorporates lateral access easements (Standard No. 6) and takes advantage of a vertical offer-to-dedicate where the closest accessway is a mile away (Standard No. 7).

Unavailability of Funding: The Surfrider Foundation is a nonprofit organization with limited fundraising resources. Without the assistance of the Conservancy and the Commission's In-Lieu Fee Account, this organization would not afford to maintain this accessway since there are no other funding sources available. The Conservancy is the only agency that can provide the technical assistance and the funds to operate and maintain accessways.

SELECTION CRITERIA

Urgency: The accessway is an Offer-to-Dedicate access easement and is only valid for thirteen more years. During the next ten years it not necessarily likely that there will be available funds and an eager management agency to accept this easement. In addition, the demand for more coastal access is steadily growing as Malibu's population increases.

Innovation and Design Excellence: This metal stairway was built to code and should last at least twenty years, providing a high-quality accessway to a difficult to reach beach.

Cost Effectiveness: This project is extremely cost effective. There will be no expenditure for acquisition or construction and since Surfriders will be using volunteers and has no overhead, maintenance will cost approximately \$5,000 or less a year, much less than it would cost local government agencies.

Timely Completion: The project should immediately commence after the Coastal Commission has settled the permit violation.

Increased Access: This accessway will open up new areas of beach that are currently virtually inaccessible because of the long walk over sand to reach this area.

CONSISTENCY WITH THE COASTAL ACT:

This project is consistent with the policies and goals of the Coastal Act for public access pursuant to Sections 30210 and 30214(4) of the Coastal Act.

CONSISTENCY WITH CEQA:

This project is exempt under 14 California Code of Regulations Section 15301(b) because it will involve only operation and maintenance of existing facilities.

RELATIONSHIP

However, the necessity is an often-to-be-remembered aspect of the project and it is only with the most recent year. During the next two years it is not necessarily likely that there will be available funds and an expert management agency to accept this statement in addition, the demand for more mental health is steadily growing as Malibu's population increases.

Investment and Budget Estimates: This mental health unit is being set up and should be in place by the end of the year. It is a significant step towards the difficult to reach goals.

Cost Estimates: This project is extremely cost effective. There will be no expenditure for equipment or construction and since facilities will be very similar and have no overhead maintenance will cost approximately \$2,000 or less a year. Much less than it would cost local government agencies.

Project Completion: The project should immediately commence with the (local) Commission has set the project in motion.

Increased Activity: The program will open up new areas of health care and currently virtually inaccessible because of the lack of staff and the need for the area.

This project is consistent with the policies and goals of the County and the public health program to Section 30110 and 301140 of the County Act.

This project is exempt under the California Code of Regulations. Section 15011(b) because it will involve only operations and maintenance of existing facilities.

CONSISTENCY
WITH THE
COUNTY ACT

CONSISTENCY
WITH CEQA

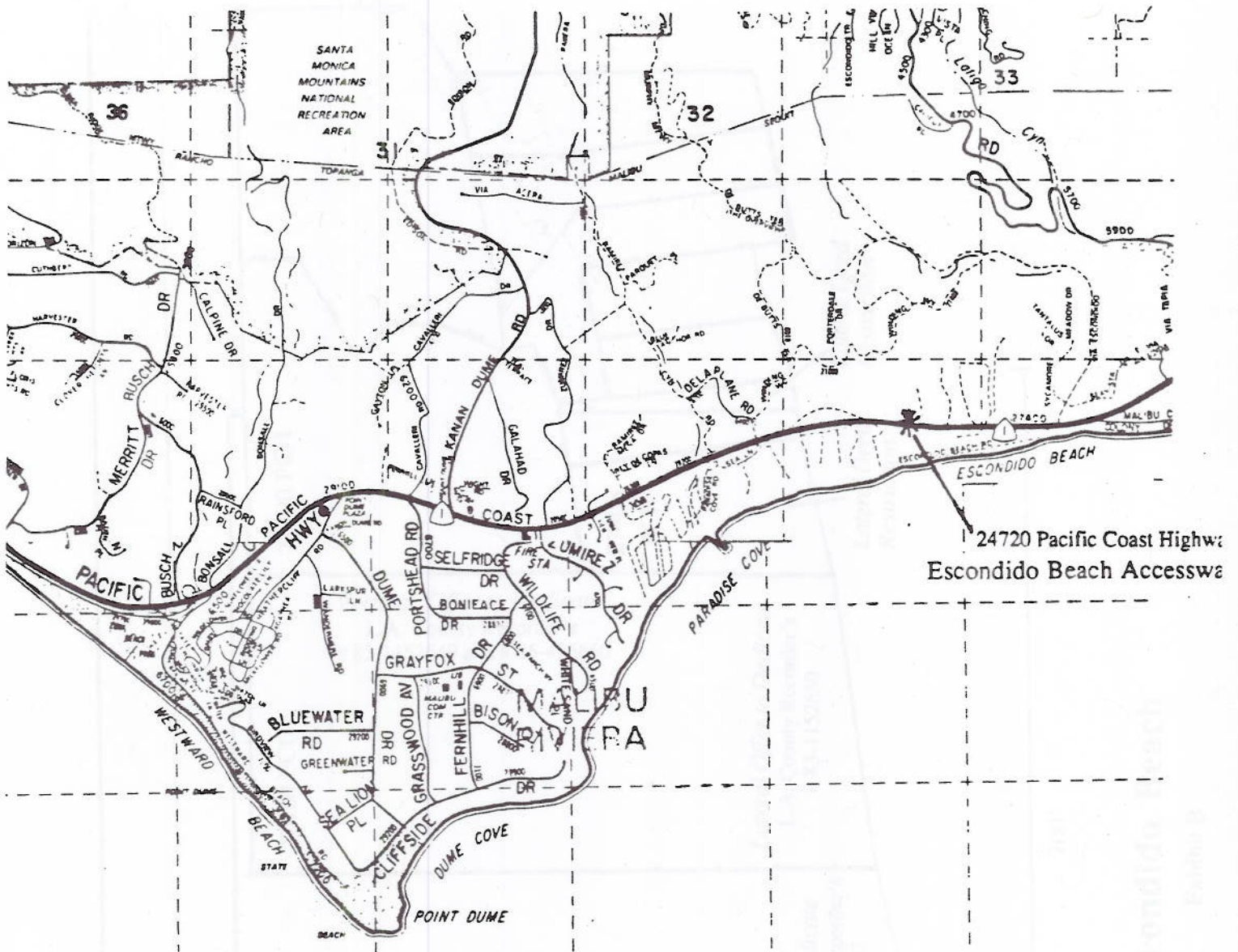


Exhibit A

MEMORANDUM OF UNDERSTANDING

This memorandum is intended to provide for the expenditure of funds in the In Lieu Fee Account of the California Coastal Commission and to create a framework of cooperation between the California Coastal Commission and the State Coastal Conservancy.

WHEREAS the California Coastal Commission (the Commission) is a state agency established pursuant to Public Resources Code Section 30300, and is charged with primary responsibility for implementing and enforcing the California Coastal Act of 1976 (Public Resources Code Section 30000 et seq., (the Coastal Act); and

WHEREAS the State Coastal Conservancy (the Conservancy) was established under Division 21 of the Public Resources Code (Section 31000 et seq.) to implement programs pursuant to the Coastal Act; and the Conservancy has been given authority to create a system of public accessways along the state's coastline; and

WHEREAS the Commission has established the Malibu Beach Access Fund, an in lieu fees program, to mitigate the effects of commercial development on coastal access and local traffic by acquiring new vertical accessways or funding their operation and maintenance; and

WHEREAS the Conservancy and the Commission acknowledge that the primary reason new accessways have not been developed on available sites in the Malibu region is the lack of funds for development, operations, and maintenance and the lack of a willing management agency;

WHEREAS the Conservancy is undertaking a comprehensive access program for Malibu which locates priority vertical accessways and public and nonprofit management agencies to operate and maintain the accessways;

WHEREAS the Commission and the Conservancy desire to use the Malibu Beach Access Fund to develop, operate and maintain these priority vertical accessways;

NOW, THEREFORE the Commission and the Conservancy agree as follows:

1. The Conservancy shall establish a special deposit fund account in the State Treasury, to be designated the "Malibu Comprehensive Access Account (the MCAA)," to receive money under this Memorandum of Understanding (MOU). The Conservancy shall use best efforts to assure that interest earned on monies deposited in the MCAA are paid to the Account to be used for the purposes of this MOU.
2. Upon approval of the Conservancy projects providing for the operation and maintenance of public accessways at the following sites, the Commission shall transfer funds from the Malibu Beach Access Fund to the

Memorandum of Understanding
Malibu Beach Access Fund
Page Two

Conservancy for deposit in the MCAA in the following amounts:

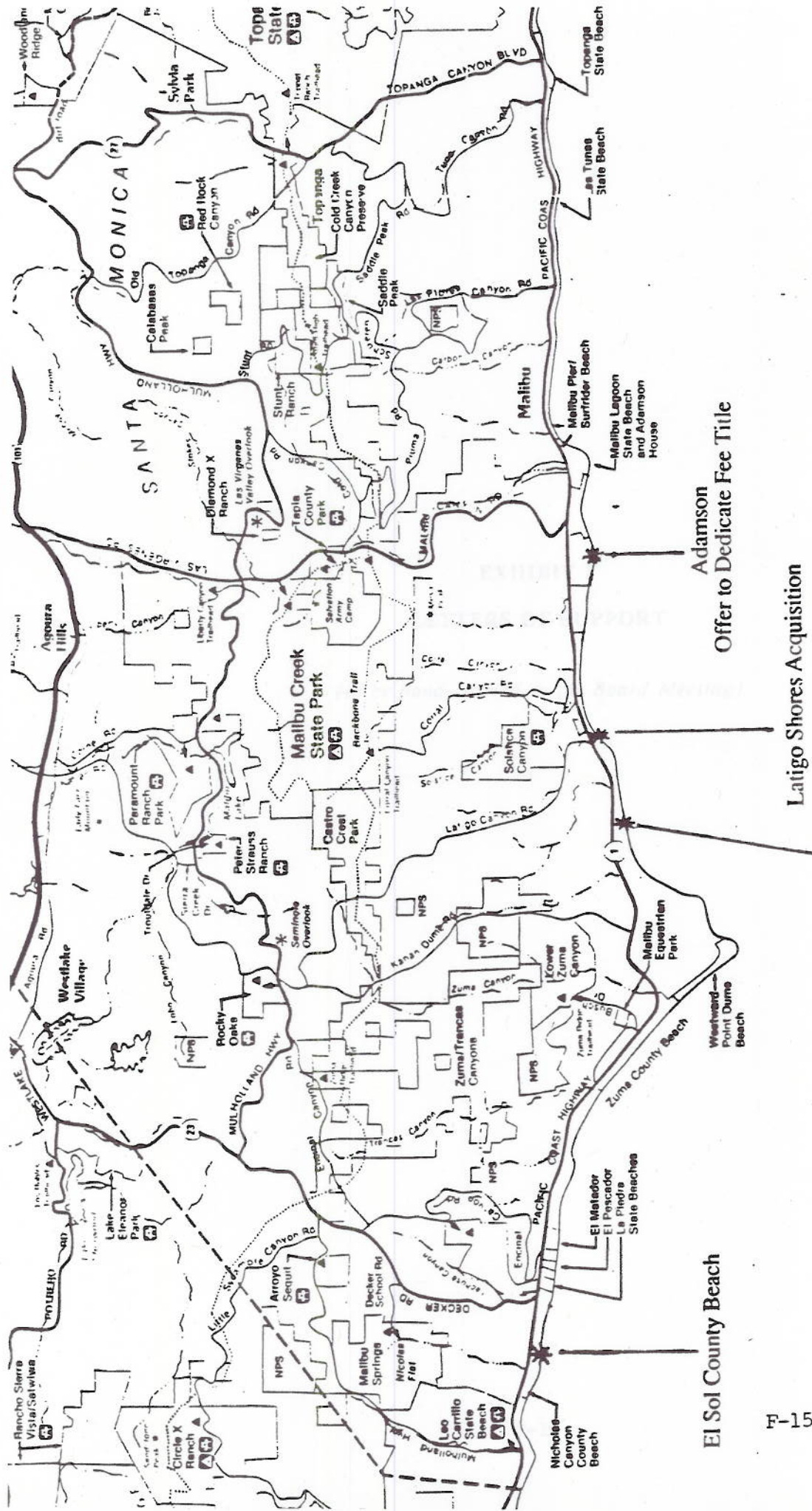
a. Escondido Beach Accessway	\$50,000
b. Adamson Accessway	\$170,000
c. El Sol Accessway	\$180,000

3. The Conservancy shall use all funds in the MCAA to provide for development, operations, and maintenance of public accessways at the above sites pursuant to terms and conditions adopted by the Conservancy's Board.
4. Upon approval by the Conservancy of other projects which consist of the development and/or operation and maintenance of public accessways in Malibu, and subject to Commission authorization to use funds in the Malibu Beach Access Fund for that purpose, the Commission may transfer additional funds from the Malibu Beach Access Fund to the Conservancy for deposit in the MCAA, and all funds so transferred shall be used in the manner provided in this MOU.

Dated: _____

Peter Douglas
Executive Director
California Coastal Commission

Peter Grenell
Executive Officer
State Coastal Conservancy



Adamson
Offer to Dedicate Fee Title

Latigo Shores Acquisition

ESCONDIDO BEACH ACCESSWAY

Malibu Priority Access Sites

Exhibit E

MARK A. MASSARA, ESQ.
1222 Hopkins Gulch
Boulder Creek, California 95006
#408-338-9653
FAX #408-338-9654

Mr. Reginald F. Dupuy
Chairman
California State Coastal Conservancy
1330 Broadway, Ste. 1100
Oakland, California 94612-2530

November 19, 1990

Escandido F

RE: Malibu Comprehensive Access, Phase I
Our File No.: C3400-001

Dear Chairman Dupuy:

On November 17, 1990, the Surfrider Foundation Board of Directors voted unanimously to support the Staff recommendation regarding Malibu Comprehensive Access Plan, Phase I and to involve ourselves to whatever extent may be necessary to achieve the goals of public access as set forth therein.

As you know, the Surfrider Foundation is a nonprofit corporation organized in California and now working world-wide to preserve and protect marine and coastal environments through education, conservation and research.

With respect to public access, you are also probably aware that we have on occasion litigated the public right to pursue beach access and recreation (Hammond's Meadow, Santa Barbara). Further, we have entered into a Management Agreement with the State Coastal Conservancy to provide access at Moat Creek in Mendocino County, California. As we are fortunate to have Foundation members in every county in California, we are able to provide low cost local management at Moat Creek as well as other locations.

Mr. Reginald F. Dupuy
November 19, 1990
Page Two

It is our sincere hope that we may be able to provide meaningful public access at the Escondido Beach accessway as well as other locations along the Malibu coast. The Foundation is concerned that the public suffers from severe lack of access in Malibu. Anything we can do to relieve the pressure within the framework of our nonprofit mission to increase access opportunities we welcome.

Also enclosed is a copy of our comprehensive liability insurance. I believe this is sufficient to allow us to manage the access as described in the Malibu Comprehensive Access staff recommendation. If you have any further questions please call.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mark A. Massara', with a long horizontal stroke extending to the right.

Mark A. Massara

cc: Robert Caughlan, President
Surfrider Foundation

